

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Viola Post Office
Viola, Idaho

Docket No. A2012-71

ORDER AFFIRMING DETERMINATION

(Issued March 6, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On November 15, 2011, the Patrons of Viola (Petitioners) filed a petition with the Commission seeking review of the Postal Service’s Final Determination to close the Viola, Idaho post office (Viola post office).² An additional petition for review was received from Dan Hardesty (Petitioner Hardesty).³ The Final Determination to close the Viola post office is affirmed.⁴

II. PROCEDURAL HISTORY

On December 1, 2011, the Commission established Docket No. A2012-71 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

On November 30, 2011, the Postal Service filed the Administrative Record with the Commission.⁶

² Petition for Review received from the Patrons of Viola regarding the Viola, Idaho post office 83872, November 15, 2011 (Patrons Petition). Attachment 1 to the Patrons Petition includes 155 signatures of Viola post office patrons.

³ Petition for Review received from Dan Hardesty regarding the Viola, Idaho post office 83872, November 15, 2011 (Hardesty Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1015, Notice and Order Accepting Appeal and Establishing Procedural Schedule, December 1, 2011.

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing Corrected Administrative Record, December 19, 2011 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Viola, ID Post Office and Extend Service by Rural Route Service (Final Determination). The Postal Service originally filed its Notice of Filing Administrative Record on November 30, 2011, but filed a “Corrected Administrative Record,” to add several item numbers missing from the original filing, including Item No. 47. All citations refer to the Corrected Administrative Record.

The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁷

Petitioners filed participant statements supporting their Petitions.⁸ On January 24, 2012, the Public Representative filed reply comments.⁹

III. BACKGROUND

The Viola post office provides retail postal services and service to 54 post office box customers. Final Determination at 2. No delivery customers are served through this post office. The Viola post office, an EAS-55 level facility, provides retail service from 10:00 a.m. to 4:00 p.m., Monday through Saturday. Lobby access is available 24 hours daily, Monday through Saturday. *Id.*

The postmaster position became vacant on August 31, 2003 when the Viola postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the post office. *Id.* at 2, 6. Retail transactions average nine transactions daily (10 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$26,098 in FY 2008; \$26,618 in FY 2009; and \$26,782 in FY 2010. There is one permit or postage meter customer. *Id.* By closing this post office, the Postal Service anticipates savings of \$28,873 annually. *Id.* at 7.

After the closure, retail services will be provided by the Moscow post office located approximately 7 miles away.¹⁰ *Id.* at 2. Delivery service will be provided by rural route service to cluster box units (CBUs) through the Moscow post office. The

⁷ United States Postal Service Comments Regarding Appeal, January 17, 2012 (Postal Service Comments). On January 17, 2012, the Postal Service filed a Motion of the United States Postal Service for Late Acceptance of United States Postal Service Comments Regarding Appeal. The motion is granted.

⁸ Participant Statement received from Viola, Idaho Postal Patrons, December 21, 2011 (Patrons Participant Statement); Participant Statement received from Dan Hardesty, December 19, 2011 (Hardesty Participant Statement).

⁹ Public Representative Reply Comments, January 24, 2012 (PR Reply Comments).

¹⁰ MapQuest estimates the driving distance between the Viola and Moscow post offices to be approximately 8.8 miles (12 minutes driving time).

Moscow post office is an EAS-21 level post office, with retail hours of 8:00 a.m. to 5:00 p.m., Monday through Friday, and 9:30 a.m. to 1:30 p.m. on Saturday. *Id.* Lobby access is available 24 hours daily, Monday through Saturday. Administrative Record, Item No. 18. Three-hundred-sixteen (316) post office boxes are available. Final Determination at 2.

Retail services are also available at the Palouse, Washington post office located 6 miles away.¹¹ The Palouse post office is an EAS-15 level post office, with retail hours of 8:00 a.m. to 11:30 a.m. and 12:30 p.m. to 4:30 p.m., Monday through Friday, and no hours on Saturday. Final Determination at 2, Administrative Record, Item No. 18. Lobby access is available 24 hours daily, Monday through Saturday. Administrative Record, Item No. 18. One-hundred-sixty-seven (167) post office boxes are available. *Id.* The Postal Service will continue to use the Viola name and ZIP Code. *Id.* at 5, Concern No. 1.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Viola post office. Petitioners assert that rural route service will not provide the required maximum degree of regular and effective postal services. Patrons Petition at 1. Petitioner Hardesty contends that closing the post office will have a devastating impact on the Viola community. Hardesty Petition at 1. Petitioners dispute the Postal Service's calculation of economic savings. Patrons Petition at 15; Hardesty Petition at 2; Hardesty Participant Statement at 2-3. Petitioners note that 1 month after the Postal Service began investigating a possible closure of the Viola post office in June 2011, it upgraded the post office's handicap access at the cost of \$20,000. Patrons Petition at 1; Hardesty Petition at 2. Petitioners contend that the Viola post office is being closed solely for financial reasons. Patrons Participant Statement at 1.

¹¹ MapQuest estimates the driving distance between the Viola and Palouse post offices to be approximately 6.6 miles (10 minutes driving time).

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Viola post office. Postal Service Comments at 2. The Postal Service believes the appeal raises four main issues: (1) the impact on postal services; (2) the impact on the Viola community; (3) the calculation of economic savings expected to result from discontinuing the Viola post office; and (4) the impact on postal employees. *Id.* at 1. The Postal Service asserts that it has given these and other statutory issues serious consideration and concludes that the determination to discontinue the Viola post office should be affirmed. *Id.* at 1-2.

The Postal Service explains that its decision to close the Viola post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal projected growth in the area;
- minimal impact on the community; and
- expected financial savings.

Id. at 5. The Postal Service contends that it will continue to provide regular and effective postal services to the Viola community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Viola community, economic savings, and the effect on postal employees. *Id.* at 16-17.

Public Representative. The Public Representative contends that it is unduly harsh to the Viola community to close the Viola post office. PR Reply Comments at 10-11. The Public Representative notes that if the Postal Service's objective is cost

savings, the Viola post office is not a good candidate because rent for the post office is low and it has stable annual revenue of more than \$26,000. *Id.* She asserts that the circumstances supporting the Postal Service's decision to close the Viola post office are uncertain; for example, the location of the proposed CBUs is not established. *Id.* at 11. She notes that several post offices in the area surrounding Viola may be, or are being, discontinued, and contends that it would be in the public interest to determine the collective impact of the closings of several Idaho post offices. She also says the Administrative Record would benefit from reconsideration of the conclusion that closing the Viola post office would improve the Postal Service's financial condition. *Id.*

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action

to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. 39 U.S.C. § 404(d)(5).

The Administrative Record indicates the Postal Service took the following steps in providing notice of its intent to close. On June 8, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Viola post office. Final Determination at 2. A total of 225 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. *Id.* A total of 82 questionnaires were returned. On June 23, 2011, the Postal Service held a community meeting at the Federal Building in Moscow to address customer concerns. Twenty-one (21) customers attended. *Id.*

The Postal Service posted the proposal to close the Viola post office with an invitation for comments at the Viola, Moscow, and Palouse post offices from July 5, 2011 through September 5, 2011. Final Determination at 2. The Final Determination was posted at the Viola post office from October 14, 2011 through November 15, 2011. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A). The Postal Service must also comply with the provisions of 39 U.S.C. § 101(b), which prohibits closing any small post office solely for operating at a deficit.

Effect on the community. Viola, Idaho is an unincorporated community located in Latah County, Idaho. Final Determination at 5. The community is administered politically by the Latah County Commission. Police protection is provided by the Latah

County Sheriff. Fire protection is provided by the Moscow Rural Fire Department. *Id.* Residents may travel to nearby communities for other supplies and services. See *generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Viola community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Viola post office, customers raised concerns regarding the effect of the closure on the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 5-6.

Petitioner Hardesty raises the issue of the effect on the community, stating that the community will be negatively impacted by the closure. Hardesty Petition at 1. Petitioners claim the town has been growing. Patrons Petition at 2. The Postal Service responds that it has considered this issue and will continue to provide the Viola community with regular and effective postal services. Postal Service Comments at 11.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Viola postmaster retired on August 31, 2003 and that an OIC has operated the Viola post office since then. Final Determination at 6. It asserts that after the Final Determination is implemented, the non-career postmaster relief (PMR) may be separated and that no other Postal Service employee will be adversely affected. *Id.*

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Viola post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Viola customers. Postal Service Comments at 5. It asserts that customers of the closed Viola post office may

obtain retail services at the Moscow post office located 7 miles away. Final Determination at 2. Delivery service will be provided to CBUs by rural route service through the Moscow post office. The Viola post office box customers may obtain Post Office Box service at the Moscow post office, which has 316 boxes available. In addition, Post Office Box service is available at the Palouse post office located 6 miles away where there are 167 post office boxes available. *Id.* The Postal Service asserts that if a shortage of unassigned post office boxes at the Moscow post office occurs due to discontinuances of the Viola post office and the nearby University Station in Moscow, additional boxes can be provided. Postal Service Comments at 9.

For customers choosing not to travel to the Moscow post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 9. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners assert that rural route service will not provide the required maximum degree of regular and effective postal services. Patrons Petition at 1. The Postal Service responds that the rural carrier will provide the same quality of postal services as those that were provided by the Viola post office. Postal Service Comments at 10.

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$28,873. Final Determination at 7. It derives this figure by summing the following costs: postmaster salary and benefits (\$30,738) and annual lease costs (\$3,418), minus the cost of replacement service (\$5,283). The Postal Service states that a one-time expense of \$6,000 will be incurred for the movement of this facility. *Id.*

Petitioners dispute the Postal Service's calculation of economic savings. Patrons Petition at Attachment 2; Hardesty Petition at 2; Hardesty Participant Statement at 2-3. Petitioners note that the OIC is paid less than a postmaster and does not receive benefits. Patrons Petition at Attachment 2; Patrons Participant Statement at 2; Hardesty Participant Statement at 3. Petitioners contend that the Viola post office

cannot be closed solely for financial reasons. Patrons Participant Statement at 1. Petitioners also note that the Postal Service recently undertook an upgrade of the post office's handicap access with renovations costing \$20,000. Patrons Petition at 1; Hardesty Petition at 2.

The Postal Service responds that its economic savings estimates are forward looking and that, if the Viola post office is not discontinued, the postmaster position would ultimately have been filled with a career employee. Postal Service Comments at 13. The Postal Service asserts that economic savings are just one of several factors it has considered in making its decision. *Id.* at 12.

The Viola post office postmaster retired on August 31, 2003. Final Determination at 6. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. See, e.g., Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Viola post office has been staffed by an OIC for more than 8 years, even assuming the use of the presumably lower OIC salary, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

Section 101(b). Section 101(b) prohibits closing any small post office solely for operating at a deficit. Petitioners allege that the Postal Service is closing the Viola post office solely for economic reasons. Patrons Participant Statement at 1.

To be sure, economics plays a role in the Postal Service's decision. However, the Commission is not prepared to conclude that the Postal Service's determination violates section 101(b). In addition to considering workload at the Viola post office (low revenues and averaging only nine retail transactions per day), the Postal Service took into account other factors such as the postmaster vacancy, the minimal impact on the

community, and expected financial savings. In addition, it considered the alternate delivery and retail options available to customers. Final Determination at 2.

The Postal Service did not violate the prohibition in section 101(b) on closing the Viola post office solely for operating at a deficit.

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Viola post office is affirmed.¹²

It is ordered:

The Postal Service's determination to close the Viola, Idaho post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹² See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Viola post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on August 31, 2003. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only an OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for more than 8 years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Viola. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

The Public Representative notes that the administrative receiving post office in

Moscow, Idaho is located in a building (the Moscow Federal Building) on the General Service Administration's list of surplus property, according to public record sources. See PR Comments at 4, n.11, 9. The Public Representative also notes the potential difficulties afforded by the closure of nearby post offices, which may in aggregate place greater demands than anticipated upon the remaining facilities, which she refers to as a "domino effect." *Id.* at 4. In my opinion, the Postal Service should avoid assigning retail responsibilities to a post office facing the strong possibility of relocation. In addition, post offices cannot and should not be examined in isolation. The Postal Service should consider the impact of multiple closings within a small geographic area upon the capacity and infrastructure of the remaining facilities.

The Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Viola, Idaho and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for more than 8 years, since August 31, 2003, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

In addition, the Administrative Record indicates that there is one permit holder. Administrative Record, Item No. 15 at 1. According to the Postal Service, it only counts retail window transactions and that revenue from permit/postage meter customers is not included because permit and postage meter customers typically use Bulk Mail Entry Units (BMEUs), carriers, or Postal Service drop boxes.¹ However, there is no indication in the Administrative Record if the permit customer utilizes BMEUs, carriers, or drop boxes. It is important for the Postal Service to accurately reflect all business activities at each post office to determine the potential impact on the community it serves, especially since revenues have been increasing over the past 3 years.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Viola post office and should be remanded.

Nanci E. Langley

¹ See Docket No. A2012-78, Postal Service Comments at 10-11, n.24.